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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,804	10/12/2001	Kouji Seino	1448.1016	7763
21171	7590	06/28/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/974,804	Applicant(s) SEINO, KOUJI	
	Examiner DANIEL LASTRA	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/12/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/12/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-43 have been examined. Application 09/974,804 (METHOD OF AND APPARATUS FOR DISTRIBUTING INFORMATION, AND COMPUTER PRODUCT) has a filing date 10/12/2001 and foreign data 06/28/2001.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-43 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the instant claims fail to recite the use of any type of technology within the recited steps of distributing information.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

Although the claimed invention produces a useful, concrete and tangible result, since the claimed invention as a whole is not within the technological arts, as explained above, claims 1-43 are deemed to be directed to non statutory subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobs (US 2004/0039784).

As per claims 1, 14 and 29, Jacobs teaches:

A method of distributing information comprising:

an intensive information transmission step of transmitting intensive information obtained by gathering all of or a part of a plurality of to-be-distributed information to a predetermined user (see paragraphs 25 and 59);

a selective information receiving step of receiving selective information related to the to-be-distributed information selected by the user from the plurality of to-be-distributed information gathered based on the intensive information (see paragraphs 59, 173-174);

a to-be-distributed information extraction step of extracting only predetermined to-be-distributed information, based on the selective information received in the selective information receiving step (see paragraphs 59, 173-174);

a contents creation step of creating contents, using the to-be-distributed information extracted in the to-be-distributed information extracting step (see figure 3A);
and

a registration step of registering the contents created in the contents creation step in a predetermined site (see paragraph 62).

As per claims 7, 21 and 36, Jacobs teaches:

A method of distributing information comprising: an intensive information transmission step of transmitting intensive information obtained by gathering all of or a part of a plurality of to-be-distributed information to a predetermined user;

a first selective information receiving step of receiving selective information related to the to-be-distributed information selected by the user from the plurality of to-be-distributed information gathered based on the intensive information (see paragraphs 59, 173, 174);

a to-be-distributed information extraction step of extracting only predetermined to-be-distributed information, based on the first selective information received in the first selective information receiving step (see paragraphs 59, 173, 174);

a to-be-distributed information transmission step of transmitting the to-be-distributed information extracted in the to-be-distributed information extracting step to the user (see paragraphs 59, 173, 174);

a second selective information receiving step of receiving second selective information related to the to-be-distributed information selected by the user from the to-be-distributed information transmitted in the to-be-distributed information transmission step (see paragraphs 58, 173, 174);

a contents creation step of creating contents, using the to-be-distributed information selected by the second selective information received in the second selective information receiving step (see figure 3a); and

a registration step of registering the contents created in the contents creation step in a predetermined site (see paragraph 62).

As per claims 2, 8, 15, 22, 30 and 37, Jacobs teaches:

The method of distributing information according to claim 14, further comprising:

an advertising information extraction step of extracting only predetermined advertising information based on the to-be-distributed information extracted in the to-be-distributed information extraction step (see paragraphs 173-174);

wherein contents are created in the contents creation step, using the to-be-distributed information extracted in the to-be-distributed information extraction step and

the advertising information extracted in the advertising information extraction step (see paragraph 59; figure 3a).

As per claims 3, 9, 17, 24, 32 and 39, Jacobs teaches:

The method of distributing information according to claim 15, further comprising:

a calculation step of calculating the number of times the advertising information has been extracted in the advertising information extraction step, or the number of times the advertising information has been used for creating the contents in the contents creation step (see paragraph 109, 165-167); and

an accounting information preparation step of preparing accounting information based on the number of times calculated in the calculation step (see paragraphs 28, 109, 229-231).

As per claims 4, 10, 18, 25, 33 and 40, Jacobs teaches:

The method of distributing information according to claim 14, further comprising a site information transmission step of transmitting the information related to a site registered in the registration step to the user (see paragraph 62).

As per claims 5, 11, 19, 26, 34 and 41, Jacobs teaches:

The method of distributing information according to claim 14, wherein when the information updated in the information update step is the to-be-distributed information extracted in the to-be-distributed information extraction step or the advertising information extracted in the advertising information extraction step, the contents creation step recreates the contents using the updated information (see paragraph 152).

As per claims 6, 12, 20, 27, 35 and 42, Jacobs teaches:

The method of distributing information according to claim 19, further comprising a recreated information transmission step of transmitting the information related to recreation to the user, when the contents are recreated in the contents creation step (see paragraph 153).

As per claims 16, 23, 31 and 38, Jacobs teaches:

The method of distributing information according to claim 15, further comprising:

a display order change information receiving step of receiving display order change information that changes the display order of the contents created in the contents creation step (see paragraph 140);

wherein only predetermined advertising information is extracted in the advertising information extraction step based on the display order change information received in the display order change information receiving step (see paragraph 140).

As per claims 13, 28 and 43, Jacobs teaches:

A method of distributing information comprising:

an intensive information transmission step of transmitting intensive information obtained by gathering all of or a part of a plurality of to-be-distributed information to a predetermined user (see paragraphs 25 and 59);

a selective information receiving step of receiving selective information related to the to-be-distributed information selected by the user from the plurality of to-be-distributed information gathered based on the intensive information (see paragraphs 59, 173, 174);

a to-be-distributed information extraction step of extracting only predetermined to-be-distributed information, based on the selective information received in the selective information receiving step (see paragraphs 59, 173, 174); and

a to-be-distributed information transmission step of transmitting the to-be-distributed information extracted in the to-be-distributed information extracting step to the user (see paragraphs 59, 173, 174).

Conclusion

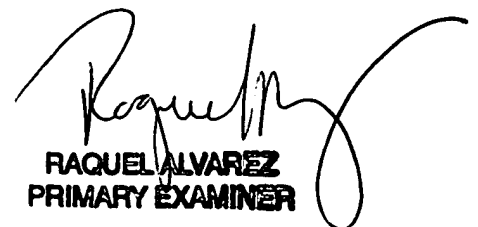
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The Examiner's Rightfax number is 571-273-6720.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra
June 13, 2005


RAQUEL ALVAREZ
PRIMARY EXAMINER